

CALIFORNIA PRIVACY PROTECTION AGENCY

TITLE 11. LAW

DIVISION 6. CALIFORNIA PRIVACY PROTECTION AGENCY

CHAPTER 3. DATA BROKER REGISTRATION

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Accessible Deletion Mechanism

Sections Affected: California Code of Regulations (CCR), title 11, sections 7601, 7602, 7603, 7604, 7610, 7611, 7612, 7613, 7614, 7615, 7616, 7620, 7621, and 7622.

PROBLEM STATEMENT

On October 10, 2023, the Governor signed Senate Bill (SB) 362, also known as the Delete Act, into law. As the author of SB 362 stated in the Senate Floor Analysis on September 2023, “[c]urrently, the data broker registry is impractical because it requires Californians to request each of the more than five-hundred registered brokers to delete their personal information, a practically impossible task for all but the most concerned consumers.”¹ Moreover, the right to delete under the California Consumer Privacy Act (CCPA) is limited to information collected from the consumer and does not enable deletion of the data that a data broker collects indirectly from consumers. The Delete Act addresses this issue by providing a platform for consumers to delete data indirectly collected about them from data brokers.

Under the law, the California Privacy Protection Agency (Agency) must maintain a public informational internet website providing data brokers’ registration information (Data Broker Registry). In addition, the Agency must establish, maintain, and provide access to an accessible deletion mechanism that allows a consumer, through a single verifiable consumer request, to request that every data broker in the Data Broker Registry delete any personal information related to that consumer held by the data broker or associated service provider or contractor. Civil Code section 1798.99.87 subdivision (a) provides that the Agency may adopt regulations to implement the Delete Act.

The Agency has developed the Delete Request and Opt-Out Platform (“DROP”) and proposed regulations to implement the accessible delete mechanism required by the Delete Act. The proposed regulations will provide data brokers with guidance regarding how to interface with the DROP and how to process a consumer DROP request, including converting the deletion request to an opt-out of sale request if it cannot be verified. The proposed regulations will also

¹ Senate Floor Analysis on SB-362 (2023), available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB362.

provide guidance to consumers and authorized agents on how to submit a deletion request through the DROP.

To those ends, the proposed regulations explain to data brokers how to create an account for the DROP, access the DROP, process consumer requests, upload the status of consumer requests, maintain access to the mechanism, disconnect from the mechanism, and deactivate their account. The proposed regulations will provide guidance to consumers on how to submit a delete request to data brokers, how to cancel a delete request, and how to request a review of their California residency determination. The proposed regulations will also provide guidance to authorized agents on how to submit a request on behalf of consumers.

STATEMENT OF PURPOSE, PROBLEM, RATIONALE AND BENEFITS

The proposed regulations provide a number of significant benefits to Californians, including both monetary and nonmonetary benefits. Despite the inability to translate the primary benefits of the proposed regulations into a monetary figure, they have widespread and profound societal benefits that further the purposes of the Delete Act and honor the long history of privacy rights and business innovation in California. These important benefits include increased transparency and consumer control over personal information; empowering consumers to exercise their rights efficiently and in a more informed manner; reduced incidences of unauthorized actions related to personal information and harm to consumers; and business efficiencies and operational improvements.

The proposed regulations empower consumers to exercise their rights efficiently and in a more informed manner. Specifically, they address a gap in the protection of consumers' privacy rights. Data brokers may not collect information from consumers directly, thus, data brokers are able to obfuscate their identity to consumers, leaving consumers disadvantaged in exercising their rights over their personal information. The proposed regulations create and implement a mechanism that allows consumers to delete their personal information from every data broker registered with the Agency that did not collect the information from the consumer. They also operationalize the legal requirement to stop the sale of the consumer's personal information if the consumer's deletion request is denied due to multiple consumer matches with a given identifier (making the request unverifiable). The proposed regulations also protect consumer privacy by limiting the information provided by authorized agents assisting consumers with delete requests and standardizing the personal information necessary to effectuate a deletion request. In addition, the proposed regulations protect consumers by requiring identification of the authorized agent acting on behalf of the consumer and requiring express authorization from the consumer for certain actions.

The proposed regulations also increase business efficiencies and consumer accessibility by providing clarity about how data brokers, authorized agents, and consumers must interface with the DROP. The proposed regulations help the data broker industry by centralizing and standardizing all delete requests into a consistent process and format. Data brokers will receive the deletion request of every consumer through the DROP, which will allow them to utilize

automated means to process the requests, rather than requiring them to process individual consumer requests through separate e-mail correspondences or manually. Additionally, the proposed regulations clarify to consumers how to exercise their deletion rights through the DROP, which will result in data brokers receiving requests that include the types of personal information a data broker needs to determine if the data broker has personal information about the consumer in their records.

SPECIFIC PURPOSE, NECESSITY, AND RATIONALE OF EACH SECTION

The Agency proposes amending sections 7601, 7602, 7603, 7604 and adopting sections 7610, 7611, 7612, 7613, 7614, 7615, 7616, 7620, 7621, 7622 of Division 6, of Title 11, of the California Code of Regulations as follows.

Amend titles of Chapter 3 and Article 2 of Chapter 3.

The Agency proposes to amend the titles of Chapter 3 and Article 2 of Chapter 3 by adding “and Accessible Deletion Mechanism” to Chapter 3’s title and “DEFINITIONS AND” to Article 2’s title. These proposed amendments are necessary for clarity as Chapter 3 will now include regulations related to the accessible deletion mechanism, referred to as the DROP and Article 2 will now include definitions in addition to registration requirements.

Amend § 7601. Definitions.

The proposed amendments to section 7601 include adding a statement that the definitions in that section apply to Chapter 3. The proposed amendments to section 7601 add definitions necessary to implement Civil Code section 1798.99.86 and amend current definitions to clarify the scope of entities covered by Civil Code section 1798.99.80 et seq. and its implementing regulations.

Proposed subsection (a) defines “Access the Delete Request and Opt-out Platform (DROP)” to clarify a data broker’s obligations when accessing the DROP as required under Civil Code section 1798.99.86 subdivision (c)(1) and these proposed regulations. The definition clarifies that the accessible deletion mechanism and the Delete Request and Opt-out Platform or the DROP are one and the same. The definition makes clear that a data broker will need to retrieve a consumer deletion list as part of accessing the DROP in order to comply with deletion and opt-out of sale requirements. This is necessary because data brokers need guidance on how to comply with their deletion and opt-out of sale obligations and this definition clarifies data brokers’ access requirements. The definition also clarifies that merely signing into the data broker’s DROP account without retrieving a consumer deletion list does not amount to “accessing” the DROP for purposes of triggering certain regulatory requirements described in these proposed regulations.

Proposed subsection (b) defines “Access session” to clarify the term as used in these proposed regulations. The Agency has determined that for efficiency, data brokers shall upload the status of prior DROP deletion requests before downloading new DROP deletion requests and that

these two actions shall both be performed each time the data broker accesses the DROP, which will also reduce costs.

Proposed subsection (c) defines “Consumer deletion list” to clarify a data broker’s obligations when complying with Civil Code section 1798.99.86 subdivision (c) and these proposed regulations. This is necessary because the Agency is required to allow a consumer to submit information in one or more privacy-protecting ways pursuant to Civil Code section 1798.99.86 subdivision (b)(2). The implementation of a “consumer deletion list” supports the protection of consumer information while communicating the deletion request to data brokers. The definition explains that the consumer identifiers in the deletion list will be hashed to ensure privacy and security, the data brokers will be provided the hashing algorithm used to help data brokers identify any matching consumer personal information in their records, and data brokers will be provided with a transaction identifier for each request to assist with uploading status and other tracking needs. Defining this term is necessary to clarify to data brokers how they need to identify whether they have any personal information about a consumer and effectuate a deletion request in a privacy protective manner.

Former subsection (a), now proposed subsection (d), amends the definition of “Direct relationship.” The Agency proposes removing the three-year time limit and adding clarification that the consumer must intend to interact with the business to establish a direct relationship. In the current definition, if a consumer intentionally interacts with, and provides their personal information to, a company but then does not interact with the company for three years, the company would be considered a data broker for purposes of the consumer’s personal information. The Agency did not intend for this scenario to cause the company to be a data broker. In addition, the Delete Act provides consumers the right to delete personal information collected in a non-first party interaction but does not provide the right to delete personal information collected in a first-party capacity, which is already provided for by the CCPA. Thus, the Agency proposes to clarify the definition of direct relationship by removing the three-year time limit and explaining that a business does not have a direct relationship unless the consumer intends to interact with the business.

The proposed amendments to the definition also clarify that no direct relationship exists as to personal information it collects outside of an intentional first party interaction with the consumer. This is necessary to provide clarity to businesses about when they are subject to the Delete Act requirements and to inform consumers that the business may be selling personal information not acquired directly from them or through an intentional interaction. Including this language is necessary for consumers to exercise their statutory right to delete personal information that was not collected directly from them. For example, websites may host non-first party cookies or pixels on their webpage. While the consumer browses goods on that first party website, a third party may collect personal information directly from the consumer. This cannot be treated as an intentional interaction with that third party because the consumer is not intending to interact with that third party. This definition is necessary to ensure that businesses cannot rely on these unintentional interactions to avoid complying with consumer rights bestowed by the Delete Act.

Finally, the phrase “or obtaining information about” has been moved for clarity.

Proposed subsection (e) defines “Delete Request and Opt-out Platform” or “DROP” as the accessible delete mechanism required by Civil Code section 1798.99.86. This is necessary to inform data brokers, consumers, and authorized agents of the name of the accessible deletion mechanism the Agency has developed as required by Civil Code section 1798.99.86. This definition ensures that consumers know where to submit their deletion requests and data brokers know what system they must access to comply with their legal obligations under the Delete Act.

Proposed subsection (f) defines “DROP account” as an account within the DROP system. This is necessary because data brokers must create a DROP account to register with the Agency and access the DROP. Additionally, a consumer must create an account to submit a DROP request. The use of an account allows the Agency to track the activity of businesses and consumers for compliance purposes.

Proposed subsection (g) defines “Extraneous or special characters” to mean non-alphabetic and non-numeric characters. This is necessary for clarity because data brokers must take specific actions regarding these characters when comparing their data with the data provided to them through the DROP.

Proposed subsection (i) defines “Personal information associated with a matched identifier” to provide clarity regarding what information a data broker is required to delete or opt-out of sale or sharing. This is necessary to ensure data brokers understand their obligations in response to a consumer’s DROP request. The definition also facilitates the processing of consumers’ delete requests based on how the DROP is architected. The inclusion of the phrase “matched identifier” is also necessary to help protect consumer privacy by transmitting the minimal personal information necessary to data brokers to effectuate a deletion request. The definition also reiterates and clarifies that personal information exempt from the law is not subject to the regulatory deletion requirements, but that inferences based on exempt information are subject to the deletion requirements, which is consistent with Civil Code section 1798.140(v).

Amend § 7602. Registration Submission Requirements.

The proposed amendment to section 7602 streamlines the registration process for data brokers by integrating it into the DROP system required under Civil Code section 1798.99.86. The amendment proposed to subsection (a) includes adding a requirement for data brokers to create an account within the DROP in accordance with section 7610 as part of the registration submission requirements. This is necessary because it is more efficient to have data brokers register using the DROP system as they will need to have an account to comply with statutory obligations to delete consumer’s personal information.

Amend § 7603. Registration Information Requirements.

Proposed amendments to section 7603 streamline the registration process for data brokers and integrate it into the DROP system required under Civil Code section 1798.99.86.

The proposed amendment to subsection (a) adds “and this Chapter” to the text. This is necessary to clarify that data brokers must provide true and correct responses when submitting the registration information required by Civil Code section 1798.99.82 and the implementing regulations. It is necessary for data brokers to provide true and accurate information so that the Agency can fulfill its regulatory duties and consumers can properly exercise their privacy rights.

The proposed amendments to subsection (c) clarify that data brokers must confirm that the information in its DROP account is correct or update the entries with correct information as part of registration. To ensure compliance with the law, it is necessary for data brokers to provide correct information when registering. The proposed amendments also delete information that a data broker must provide as part of registration. This is necessary because the registration requirements are changing to require registration through the DROP; therefore, data brokers will no longer need to submit the listed information to the Agency separate from the DROP since the system will integrate the registration and deletion functions.

Amend § 7604. Changes to Registration Information After Registration Period Closes.

Proposed amendments to section 7604 streamline the registration process for data brokers and integrate it into the DROP system required under Civil Code section 1798.99.86.

The proposed amendments to subsection (b) remove the language indicating that data brokers can contact the Agency electronically in writing to update certain registration information and replaces it with language indicating they can update this information through their DROP account. This is necessary because the Agency is proposing that data brokers register through their DROP account which is a more efficient process for data brokers and the Agency.

Adopt Article 3. Delete Request and Opt-out Platform Requirements.

Proposed Article 3 includes an accurate title about which requirements will appear in this section of the regulations, which is necessary to ensure the regulations are clear and easily understood by data brokers.

Adopt § 7610. Delete Request and Opt-out Platform Account Creation.

Proposed section 7610 provides the general requirements for creating a DROP account. The proposed section provides the process and requirements for creating and maintaining an account, the required information to submit to create an account, and the requirements for selecting a consumer deletion list to process a DROP request.

Proposed subsection (a) explains that a data broker must go to the Agency's website, www.cppa.ca.gov, to create a DROP account before accessing the DROP for the first time and instructs how to create an account. This is necessary to implement Civil Code section 1798.99.86 and to clarify to data brokers how to create the account necessary to utilize the DROP system.

Proposed subsection (a)(1) and subsections (a)(1)(A)-(B) explain that a data broker must establish a login username and password and maintain its account security by restricting access to its account credentials, the DROP, and information from the DROP to only persons authorized to act on the data broker's behalf. This is necessary to implement Civil Code section 1798.99.86 subdivision (a)(1), which requires security practices to protect consumers' personal information from unauthorized use, disclosure, access, destruction, or modification. The proposed provisions will protect consumer personal information from being compromised by threats, like hackers, and ensures that common security standards are employed by DROP users.

Proposed subsection (a)(1)(C) and (a)(1)(C)(i)-(ii) require that a data broker shall inform the Agency through its DROP account if an unauthorized actor uses the data broker's account or there is a security breach related to the data broker's account, the DROP, or information derived from the DROP. This is necessary to provide the Agency with notice to reset passwords or shut down a data broker's account to protect consumers' personal information if the account is compromised and to allow the Agency to determine what other steps may be necessary to address the situation. Proposed subsection (a)(1)(D) indicates that a data broker is responsible for all actions taken through its DROP account. This is necessary to clarify that a data broker is liable for the actions taken through its account and to incentivize data brokers to protect their DROP account and consumers' personal information.

Proposed subsection (a)(2) and proposed subsections (a)(2)(A)-(E) require data brokers to provide their business name, applicable trade names, a point of contact including name, email, and phone number, a public-facing contact information including email and phone number, public-facing website address(es), and the data broker's Employer Identification Number or Taxpayer Identification Number, as applicable. This rule is necessary to give consumers transparency into who the data brokers are and to enable consumers to make an informed decision when choosing to exercise their privacy rights because a data broker may operate under numerous names. The proposed subsections requires that data brokers provide the Agency with a point of contact, including name, email, and phone number. This is necessary so that the Agency knows who and how to contact a data broker for matters related to the Data Broker Registry and the Agency's regulatory function. The contact information will not be posted on the registry as this contact is a specific person the Agency can contact to discuss issues related to compliance, which may be a different contact than the email used by consumers to effectuate their consumer privacy rights. The proposed subsection requires that data brokers provide their applicable Employer Identification Number or Taxpayer Identification Number. This requirement is necessary for the Agency to verify the accuracy and validity of the

data broker's account information, thus reducing the potential for the creation of fraudulent accounts impersonating other businesses.

Proposed subsection (a)(3) indicates that a data broker shall select a deletion list through the DROP to process deletion requests. This is necessary to implement the requirements for data brokers under Civil Code section 1798.99.86. Based on feedback from the regulated community, the Agency is aware that data brokers generally utilize a specific, single identifier to identify a consumer record. For example, data brokers may use email addresses to organize their records and, if they are provided a list of hashed email addresses from the Agency, they will be able to match the email address from the Agency with the email address in their data base and effectuate the deletion request. If the data broker organizes its data using two different identifiers, it must request two deletion lists and attempt to find the consumer record using both identifiers. However, a data broker may select fewer lists, if the lists will produce the same matches equally. Data brokers may change the lists it has selected through their DROP account, as needed to ensure the highest number of matches and, therefore, the highest number of deletions. Proposed subsection (a)(3) is necessary to clarify to data brokers that the process for identifying consumers comports to industry practices for processing deletion requests. The proposed subsection also clarifies the requirements for selecting consumer deletion lists described in proposed subsections (a)(3)(A)-(C).

Proposed subsection (a)(3)(A) indicates that a data broker shall select all deletion lists that contain information that matches to personal information about the consumer within the data broker's records. This is necessary to ensure that data brokers attempt to effectuate as many consumer deletion requests as possible. Without this requirement, a data broker could choose a deletion list that does not include a common type of identifier in their records, resulting in a low or no match rate. This requirement to select the deletion list that will produce the most matches prevents data brokers from minimizing the number of matches, which, in turn, minimizes the number of deletion requests processed.

Proposed subsection (a)(3)(B) indicates that a data broker may select fewer lists than required in proposed subsection (a)(3)(A) if selecting multiple lists results in the same number of matches in the data broker's records. This is necessary because the Delete Act requires the Agency to minimize the disclosure of additional personal information when the data broker accesses the DROP. This requirement protects the consumer personal information a data broker processes by allow a data broker to limit it to the least amount of personal information necessary to effectuate a consumer delete request. The Agency is aware that a data broker may identify a consumer in their records through more than one identifier and, to the extent the identifiers result in the same number of matches, requiring the use of both lists is duplicative. In addition, in conjunction with proposed section 7616, the personal information provided by the Agency may only be used to comply with Civil Code section 1798.

Proposed subsection (a)(3)(C) indicates that a data broker may select more, or fewer, consumer deletion lists at most every 45 days. This is necessary because a data broker may add more personal information to their records or stop collecting certain categories of personal

information. The Agency is aware that over time a data broker may acquire databases that contain additional personal information that can have identifiers that are used in the Agency's consumer deletion lists. Proposed subsection (a)(3)(C) allows a data broker to select additional consumer deletion lists if the data broker now collects additional categories of personal information that match to the additional consumer deletion lists. This is necessary to ensure that data brokers are using the identifiers that will produce the most matches between their records and the delete requests provided through the DROP. At the same time, this is also necessary because the DROP is required to minimize the disclosure of additional personal information a data broker processes by limiting it to the least amount necessary to effectuate the most consumer delete requests. Proposed subsection (a)(3)(C) also indicates that a data broker may change its consumer deletion list selection once every 45 days. This requirement is necessary to inform data brokers when they can change their selections. Because data brokers will download DROP deletion requests and update statuses every 45 days; it is efficient and cost effective to combine any changes to the selected consumer deletion lists in one access session.

Adopt § 7611. Data Brokers Who Begin Operating After Registration Period.

Proposed section 7611 provides the general requirements for creating a DROP account for data brokers that begin operating as a data broker after the annual registration period ends. The proposed section clarifies the requirements to create an account, access the DROP, pay a full or pro-rated fee for accessing the DROP, and register as a data broker the year after it begins operating as a data broker.

Proposed subsections (a), (a)(1), and (a)(2), indicate that before operating as a data broker, a business must create a DROP account consistent with section 7610 and begin accessing the DROP within 45 days of operating as a data broker. This is necessary for data brokers to comply with their obligations under Civil Code section 1798.99.86 because a data broker must have a DROP account to process consumer deletion requests and must process deletion requests every 45 days starting August 1, 2026.

Proposed subsection (a)(3) and subsections (a)(3)(A)-(L) indicate that a data broker must pay a fee to access the DROP as provided for in Civil Code section 1798.99.86 subdivision (f)(1). Although the Agency's establishment of these fees is exempted from the Administrative Procedure Act (see Civil Code section 1798.99.87(b)), the proposed regulations include establishment of the access fees, which the Agency seeks to have filed and printed within its adopted regulations. The proposed access fee is calculated by prorating the registration fee by 12 months and calculating the number of months left in the year starting with the month that the data broker accesses the DROP for the first time. This is necessary because the Agency must collect fees to support the costs of establishing, maintaining, and providing access to the DROP. The access fee will account for use of the DROP by data brokers that are required to begin accessing the DROP after the close of one registration period and before the next registration period. The access fee includes the prorated amount plus an additional 2.99% associated third party fee for processing electronic payments. Data brokers are required to pay the access fee in

the same manner as the annual registration fee. This is necessary for consistency and efficiency in the payment of fees to the Agency.

Proposed subsection (b) indicates that a data broker must comply with all registration requirements in the Chapter during the registration period the year after it begins operating as a data broker. This requirement is necessary because Civil Code section 1798.99.82 and section 7600 subsection (k) require a data broker to register between January 1 and 31 of the year after operating as a data broker. This requirement is also necessary to clarify that a data broker must still follow registration requirements during the next registration period.

Adopt § 7612. Delete Request and Opt-out Platform Access.

Proposed section 7612 provides the general requirements for accessing the DROP through manual or automated means. The proposed section provides clarity on how to download the consumer deletion lists required to process a consumer DROP deletion request.

Proposed subsection (a) indicates that a data broker must access the DROP at least once every 45 calendar days and select its consumer deletion list(s). This is necessary because data brokers are required under Civil Code section 1798.99.86 subdivision (c)(1) to access the DROP at least once every 45 days and the proposed regulations require them to select consumer deletion lists. Proposed subsection (a) clarifies how often data brokers must access the DROP to download the lists. To the extent this provision is duplicative of existing law, the Agency finds it necessary to include the provision in these regulations so that data brokers can easily understand how the statutory and regulatory requirements operate together.

Proposed subsection (b) indicates that a data broker may access the DROP through manual or automated means and, if automated means are unavailable, the data broker shall download consumer deletion lists manually. This is necessary so that data brokers know their compliance obligations, even if their automated method is not working, to effectuate a delete request. This is also necessary because the Agency is aware that many data brokers utilize automated means to process bulk deletion requests and allowing them to use these methods creates efficiencies for the data broker and the Agency. Proposed subsection (b) also indicates that the data broker must access the DROP manually or through automated means in formats supported by the DROP. This is necessary because it is not feasible and extremely costly for the Agency to design the DROP to interface with automated means of any and all formats; therefore, this provision represents a balance between competing interests.

Proposed subsection (b)(1) indicates that if the data broker's automated connection fails through no fault of the data broker, a data broker must give notice to the Agency within 45 calendar days of its last access to the DROP. This is necessary because it facilitates a data broker's compliance requirements under Civil Code section 1798.99.86 subdivision (c)(1) to access the DROP at least once every 45 days to process deletion requests. Moreover, this is necessary for the Agency to identify and address issues with the functionality of the DROP which impacts the data brokers' ability to comply with the access requirements.

Proposed subsection (c) explains that after a data broker accesses the DROP and downloads a consumer deletion list for the first time, in every subsequent access session thereafter the data broker will only receive new or amended consumer deletion requests. This is necessary to facilitate business efficiency by minimizing duplicative consumer deletion requests and minimizing the burden of superfluous data of up to forty million consumers. This is also necessary to facilitate operational efficiency for the Agency and save costs.

Proposed subsection (c)(1) indicates that a data broker may download a complete consumer deletion list in order to ensure compliance with its statutory or regulatory obligations, reconcile internal records, or complete a required audit. These requests must be made through the data broker's DROP account and explain the necessity for such a request. This requirement is necessary to provide a mechanism for a data broker to obtain another full list to be in compliance with its obligations while minimizing unnecessary strain on operational efficiency and financial costs for the Agency.

Adopt § 7613. Processing Deletion Requests.

The proposed section provides guidelines for processing a consumer DROP deletion request in a privacy-protective manner. The proposed section includes requirements for deleting consumers' personal information, maintaining personal information, and directing service providers and contractors to delete personal information.

Proposed subsection (a) indicates that a data broker shall process deletion requests as detailed in proposed subsections (a)(1) and (a)(2). This is necessary to implement the requirements of Civil Code section 1798.99.86. The proposed subsection also clarifies the process by which the consumer information transmitted to data brokers will be processed to effectuate the most consumer delete requests while protecting the security and privacy of the consumer information.

Proposed subsection (a)(1) indicates that a data broker must use the consumer information contained in each consumer deletion list to evaluate whether the data broker has any applicable consumer personal information about a consumer in its records. This is necessary to clarify the process for how a data broker will effectuate a consumer deletion request and comply with its obligations under Civil Code section 1798.99.86. This is also necessary because the Agency is aware that data brokers identify consumers in their records through identifiers like the ones provided by the Agency through the consumer deletion lists. Finally, this is necessary to ensure data brokers compare the same types of identifiers between their data base and the deletion list(s) (e.g. comparing email addresses against email addresses, and not, for instance, email addresses against phone numbers).

Proposed subsection (a)(1)(A) indicates that a data broker must standardize the information in the data broker's records before evaluating whether the data broker has any applicable consumer personal information. This is necessary to ensure that a data broker complies with as many consumers' deletion requests as possible because without standardizing the information, a data broker may unknowingly disregard a consumer delete request despite having applicable

consumer personal information. The Agency is aware that data brokers may input personal information in differing formats; thus, this requirement is necessary to ensure that information in the data broker's records and the consumer's DROP deletion request will be properly compared and matched to effectuate the requested deletion.

Proposed subsections (a)(1)(A)(i), (a)(1)(A)(ii), and (a)(1)(A)(iii) indicate that a data broker must standardize all alphabetic characters to lowercase letters, standardize all records to remove extraneous or special characters, and implement any other standardization that the data broker knows will increase the likelihood of a match between its records and the applicable consumer deletion list. The inclusion of these requirements is necessary to ensure that a data broker complies with as many consumers' deletion requests as possible because without this proposal, a data broker may unknowingly disregard a deletion request because their records have an uppercase instead of a lowercase letter or vice versa, or because their records have a non-alphabetic or non-numeric character as a result of a typing error. For example, a data broker might not delete records associated with "Hank Colson" if their records associate the consumer with "HankColson" or "hank Colson" or "h@nk, Colson!" These requirements increase the likelihood of matching the identifier to consumer personal information by requiring uniform formatting, and thus increases the efficacy of a consumer DROP deletion request. The Agency is aware that data brokers may input personal information in differing formats and thus this requirement is necessary to ensure that a consumer DROP deletion request is effectuated. Proposed (a)(1)(A)(iii) is also necessary to ensure data brokers don't knowingly allow for unforeseen formatting issues to reduce the number of deletion requests that match with their consumer records and require record deletion. If a data broker is aware of such an issue, they must resolve it in order to carry out the purposes of the law.

Proposed subsection (a)(1)(B) indicates that a data broker must use the same hashing algorithm the Agency uses in the consumer deletion list(s) to hash the consumer personal information within the data broker's records. This is necessary to ensure that the personal information related to the request is securely compared in a privacy-protective manner pursuant to Civil Code section 1798.99.86 subdivision (b)(2). The Agency is aware that a hashing algorithm is a common privacy and security method to protect personal information and will reduce the risk of compromising consumers' personal information in the event of a breach. Also, this is necessary because the lists of consumer identifiers will only be capable of being matched if the data broker's own records utilize the same hashing algorithm when comparing identifiers.

Proposed subsection (a)(2) indicates that a data broker must implement the deletion requirements described in proposed subsection (b) for consumer personal information in the data broker's records that match to the information in the consumer deletion list. This is necessary to clarify the data broker's obligations under Civil Code section 1798.99.86.

Proposed subsection (a)(2)(A) indicates that if a data broker is comparing a consumer deletion list with multiple identifiers to its records, the data broker must delete all personal information associated with the consumer if more than 50% of the unique identifiers match with the same consumer record. This is necessary to ensure that a data broker has a standard by which to

delete consumer personal information when a consumer deletion list has multiple categories of identifiers. This is also necessary because without this requirement, a data broker may erroneously delete data that is not associated with the consumer who made the delete request but is associated with the information in its records. This is also necessary to increase the fidelity of the DROP and increases the accuracy of the matching process to effectuate a consumer DROP deletion request. The Agency determined that matching more than 50% of identifiers associated with a consumer in such a list indicates a sufficient likelihood that the consumer who submitted the deletion request is the same one appearing in the data broker's own records. The proposed subsection also provides an example for clarity to assist data brokers in understanding how to apply the rule.

Proposed subsection (a)(2)(B) indicates that if a data broker matches personal information associated with multiple consumers to an identifier on the consumer deletion list, the data broker must opt out of the sale or sharing of personal information for each consumer associated to the identifier. This is necessary to clarify a data broker's obligations under Civil Code section 1798.99.86 subdivisions (c)(1)(B) and (D). In these instances, a data broker is not able to verify which consumer submitted the request, and therefore is compelled by the law to alternatively process such matches as requests to opt-out of the sale or sharing of their personal information. The Agency is aware that phone numbers and addresses may change owners as people change their phone number or move to different homes; thus, this requirement is necessary to ensure that consumer deletion requests are properly processed as opt-out requests when the data broker cannot verify which consumer made the deletion request.

Proposed subsection (b) indicates the requirements a data broker must follow to delete the personal information associated with a matched identifier. This is necessary to clarify a data broker's obligations under Civil Code section 1798.99.86.

Proposed subsection (b)(1) states that a data broker must delete all consumer personal information that is associated with a matched identifier in the data broker's records and clarifies the categories of personal information that must be deleted. As discussed above, inferences are considered personal information under the CCPA, and therefore must be deleted even if partially based on personal information collected from a consumer in a "first party" capacity. But personal information collected from a consumer in a "first party" capacity is not required to be deleted because in such instances the consumer intended to interact with the business and has an existing right to delete such personal information under the CCPA. This distinction is appropriate because it is reasonable for a consumer to want a data broker to delete their non-"first party" collected data, but maintain the personal information that they directly and intentionally made available to the business. Accordingly, these provisions are necessary to clarify a data broker's deletion obligations under Civil Code section 1798.99.86.

Proposed subsections (b)(1)(A)-(B) indicate that a data broker is not required to delete personal information exempt pursuant to the Delete Act or that it collected directly from the consumer in a first-party capacity, and that the data broker may keep the minimum personal information

necessary to comply with its obligations under Civil Code section 1798.99.86. This is necessary to provide clarity to data brokers about what information can be retained despite a delete request.

Proposed subsections (b)(1)(B) indicates that a data broker must keep and is not required to delete the minimum personal information necessary to keep personal information deleted in response to a delete request, unless the consumer cancels or changes its request to delete personal information. This requirement is necessary to ensure that a data broker complies with its requirements under Civil Code section 1798.99.86 and ensure that consumer personal information remains deleted, even if a data broker acquires new databases after a deletion request has been processed. This is also necessary for the data broker to respond to a change in the request initiated by the consumer so that the consumer's rights are observed. Subsection (b)(1)(B) also indicates a data broker may maintain alternative types of personal information necessary to comply with its obligations, even if it was not provided to them by the Agency through the DROP. This is necessary because data brokers may have unique identifiers generated within their records to identify consumers within their systems, which may be needed to facilitate compliance with Civil Code section 1798.99.86. Subsection (b)(1)(B) indicates that any personal information maintained for compliance with a delete request may only be used for compliance purposes unless an exemption applies. This is necessary to implement requirements under Civil Code section 1798.99.86 subdivision (c)(3).

Proposed subsection (b)(1)(C) defines delete to mean permanently and completely erasing the personal information, deidentifying the personal information, or aggregating the personal information. This is necessary to ensure that consumer data is deleted out of all systems, including systems that are not accessed regularly like an archived or backup system. The inclusion of archived or backup systems is necessary because the Agency is aware that businesses may restore previous versions or backups as part of their business operations. However, proposed subsection (b)(1)(C)(i) allows a data broker to delay deletion in archived or backup systems until they become active again or are accessed for commercial purposes. This is necessary to alleviate burdens on the data broker as archived or backup systems require more resources to effectuate the delete requests, although they present minimal risk if they are not in use. These requirements are also consistent with parallel deletion requirements under existing CCPA regulations with respect to consumers' ability to delete personal information collected directly by a business.

Proposed subsection (b)(2) indicates that a data broker must ensure that all service providers and contractors delete the consumer record that is associated with a matched identifier. This is necessary to implement Civil Code section 1798.99.86 subdivision (c)(1)(C) which indicates the same requirement. Incorporating this statutory requirement in the regulation is necessary for clarity so that a data broker understands its full obligations regarding a delete request; having it all in one place assists those regulated by the provisions with compliance.

Proposed subsection (c) indicates that if any of the identifiers in the downloaded consumer deletion list do not match to any consumer personal information within a data broker's records,

the data broker shall save and maintain that personal information to comply with the consumer's deletion request on an ongoing basis. This is necessary because a data broker may not have personal information about a consumer at the time of the consumer's request, but may acquire personal information in the future. This requirement is necessary to facilitate a data broker's obligations under Civil Code section 1798.99.86. Proposed subsection (c) also indicates that a data broker shall not use the personal information for any other purpose besides complying with Civil Code section 1798.99.86 subdivision (d) unless the consumer cancels their deletion request. This requirement is necessary to implement Civil Code section 1798.99.86 subdivision (d) and clarify to data brokers the restrictions on the use of personal information in their possession.

Adopt § 7614. Reporting Status of Deletion Requests.

Proposed section 7614 provides the general requirements for reporting the status of a consumer's DROP deletion request. The proposed section clarifies when and how to upload the status of deletion request to the DROP including through manual or automated means and the acceptable format of the report.

Proposed subsection (a) indicates that data broker must report the status of every deletion request received during its previous access session starting with its second access session. This is necessary to implement Civil Code section 1798.99.86 subdivision (b)(9) that requires the DROP to allow for a consumer or their authorized agent to verify the status of a deletion request. The Agency has determined that for efficiency and cost savings, data brokers shall upload the status of prior DROP deletion requests before downloading new DROP deletion requests and that these two actions shall be performed in the same session. Incorporating this statutory requirement in the regulation is necessary to provide clarity for data brokers as to when they must provide their status reporting.

Proposed subsection (a) also indicates that a data broker is only required to report the most recent status for new or amended deletion requests if it re-downloads a complete consumer deletion list. This is necessary to alleviate business burdens of re-reporting statuses when a business re-downloads a complete consumer deletion list for the reasons listed in proposed section 7612 subsection (c)(1).

Proposed subsection (b) and (b)(1) indicate that a data broker must upload manually or by automated means the status of a deletion request, along with the transaction identifier associated with each request. This is necessary to implement Civil Code section 1798.99.86 subdivision (b)(9) and to improve operational efficiency and clarity on how a data broker reports responding to a consumer deletion request.

Proposed subsection (b)(2) and proposed subsections (b)(2)(A)-(D) indicate the various response codes a data broker may upload manually or by automated means to communicate to a consumer how their deletion request was handled. This is necessary to implement Civil Code section 1798.99.86 subdivision (b)(9) to facilitate transparency to consumers on how a data broker has handled consumer's deletion request.

Proposed subsection (b)(2)(A) indicates that “Record deleted” refers to when a data broker has matched the identifier(s) to the consumer’s personal information and deleted the consumer’s personal information in compliance with section 7613 subsection (b). This is necessary to implement 1798.99.86 subdivision (b)(9) and provide clarity to data brokers and consumers on how to communicate when a consumer’s data has been deleted after a data broker has processed the consumer’s DROP deletion request.

Proposed subsection (b)(2)(B) indicates that “Record opted out of sale” refers to when a data broker matches the identifier(s) to multiple consumers and thus is unable to verify a DROP deletion request to a single consumer and must then opt out that personal information from sale or sharing. This is necessary to implement 1798.99.86 subdivision (b)(9) and subdivision (c)(1)(B) which require that a data broker must opt out of sale or sharing of personal information for a request that cannot be verified. This is also necessary to provide clarity to data brokers and consumers on how to communicate when a consumer’s data has been opted out of sale or sharing because the request could not be verified.

Proposed subsection (b)(2)(C) indicates that “Record exempted” refers to when a data broker does not delete or opt out of sale or sharing the personal information of a consumer because all the personal information that the data broker possesses about the consumer is exempted under Civil Code section 1798.99.86. This is necessary to implement section 1798.99.86 subdivision (b)(9) and provide clarity to data brokers and consumers on how to communicate when a consumer’s data cannot be deleted or opted out of sale or sharing due to statutory exemptions.

Proposed subsection (b)(2)(D) indicates that “Record not found” refers to when a data broker is unable to match the identifier(s) to any of the consumer’s personal information. This is necessary to implement 1798.99.86 subdivision (b)(9) and provide clarity to data brokers and consumers on how to communicate to a consumer when a data broker does not have personal information about the consumer in their records.

Proposed subsection (b)(2)(D)(i) prohibits a data broker from reporting the “Record not found” status for deletion lists with multiple identifiers unless 50% or more of the identifiers do not match the consumer record. This is necessary to align with earlier provisions that require a data broker to delete personal information for a consumer from a list with multiple identifiers if more than 50% of the identifier match the consumer record within the data broker’s own records.

Proposed subsection (b)(3) requires data brokers to report an additional status of either “identifier found” or “identifier not found” when providing a status response for a deletion list with multiple identifiers. This is necessary to both ensure that data brokers are taking the proper action depending on whether 50% or more identifiers match with a consumer record, and also to assist the Agency in understanding which types of identifiers reduce the chance of a match for lists with multiple identifiers. With such information the Agency may revise the types of lists offered to enhance consumer match success rates.

Proposed subsections (c), (c)(1) and (c)(2) indicate that a data broker that uploads the status of consumer deletion requests manually must report the status of deletion requests received in the previous access session and in the same format as the downloaded consumer deletion list. This is necessary to implement Civil Code section subdivision 1798.99.86 (b)(9) and clarify the sequence in which a data broker must upload status. This requirement is also necessary to facilitate operational efficiency because without requiring the status report to be uploaded in the same format as it was received, a data broker could submit a report that the Agency cannot process and thus fail to communicate to a consumer the status of their request.

Adopt § 7615. Requirements to Stop Accessing Deletion Requests from the DROP.

Proposed section 7615 provides the process for businesses that cease operating as a data broker to stop accessing the DROP. The proposed section provides that when the business no longer meets the requirements to be a data broker, the business must provide notice, delete personal information provided by the Agency through the DROP, and deactivate its DROP account. The proposed section provides that businesses that seek to commence operating as a data broker must reactivate their account before operating as a data broker again.

Proposed subsection (a) and subsections (a)(1)-(3) indicate that a business that is no longer a data broker must notify the Agency why it is not a data broker, delete the personal information provided by the Agency through the DROP, and deactivate its DROP account. This is necessary to implement Civil Code section 1798.99.86 subdivisions (a)(1) and (c)(3) because a business that is no longer a data broker does not need to effectuate a DROP deletion request. Proposed subsection (a) (1) also requires a data broker to explain why it no longer meets the definition and that the Agency may request additional information to confirm that the business is no longer operating as a data broker. This is necessary to ensure that these businesses have legitimately ceased data broker activities to protect the personal information of consumers. Proposed subsection (a) (2) indicates that a business ceasing operating as a data broker must delete the personal information provided by the Agency within 30 days of completing registration or after it has concluded its audit requirements, whichever is later. This is necessary because a business operating as a data broker must register the following January after operating as a data broker and provide certain information as part of the registration. This is also necessary to implement Civil Code section 1798.99.86 by providing data brokers time to meet their audit compliance requirements. Otherwise, once a business ceases operating as a data broker, it has not need for the personal information provided by the Agency and must destroy it in order to reduce the chance of misuse and to enhance consumers' privacy. Proposed subsection (a)(3) indicates that a business ceasing operations as a data broker must deactivate its DROP account after complying with proposed subsections (a)(1) and (a)(2). This is necessary to clarify to a data broker when it must deactivate its DROP account after it is no longer eligible to use the DROP and to ensure they first comply with proposed subsections (a)(1) and (a)(2) to protect consumers and meet their compliance requirements. At such point there is no need for the business to maintain a DROP account and will therefore reduce costs for the data broker and Agency to close the account.

Proposed subsection (b) indicates that a business that has deactivated its DROP account must reactivate its DROP account before resuming operations as a data broker. This requirement is necessary to implement the Delete Act and to ensure that a data broker complies with the statute and implementing regulations before selling consumers' personal information, even if they previously ceased such operations. This will eliminate any perceived loopholes by businesses.

Adopt § 7616. Additional Data Broker Requirements.

Proposed section 7616 provides additional requirements for data brokers. The proposed section provides that data brokers may only use personal information for purposes of complying with Civil Code section 1798, must implement and maintain reasonable practices to protect consumer personal information, and may not contact a consumer to verify their identity for a DROP deletion request.

Proposed subsection (a) indicates that a data broker may only use consumer personal information provided by the Agency for purposes of comply with Civil Code section 1798.99.86. This is necessary to implement Civil Code section 1798.99.86 subdivision (c)(3) and to clarify the requirements of how a data broker can use consumer personal information provided by the Agency for a DROP deletion request.

Proposed subsection (b) indicates that a data broker must implement and maintain reasonable security procedures and practices to protect the personal information provided by the Agency and that the security procedures and practices must be appropriate to the nature of the personal information provided by the Agency. This is necessary to implement Civil Code section 1798.99.86 subdivision (a)(1) which requires that the DROP system be architected to protect consumers' personal information and incorporates those same requirements. The Agency has determined that separating identifier lists and providing personal information in a hashed format with a hashing algorithm meets the privacy protective requirements of the Delete Act; thus, the data broker should also be required to proceed in the same way as the Agency to protect the data. This is also consistent with existing requirements on data broker businesses under Civil Code section 1798.100(e).

Proposed subsection (c) indicates that a data broker shall not contact consumers to verify deletion requests submitted through the DROP. This requirement is necessary to implement Civil Code section 1798.99.86 subdivision (b)(3) because the purpose of the DROP is to allow a consumer to request all data brokers to delete their personal information through a single request. This requirement is necessary because without it, every data broker in the registry could contact a consumer about their deletion request, which would unduly burden a consumer, defeat the purpose of being able to submit one request, and discourage a consumer from exercising their deletion rights. Furthermore, the Agency may verify consumer residency and potentially other information, relieving data brokers of any need to independently verify consumers.

Adopt Article 4. Consumer and Authorized Agent Delete Requests

Proposed Article 4 includes an accurate title about which requirements will appear in this section of the regulations, which is necessary to ensure the regulations are clear and easily understood by consumers and authorized agents.

Adopt § 7620. Consumer Deletion Requests.

Proposed section 7620 provides the general requirements for consumers submitting a DROP deletion request. The proposed section clarifies residency requirements, what personal information may be added to a request, consent requirements, and the requirements to amend a request.

Proposed subsection (a) indicates that a consumer shall submit their deletion request through the DROP and may be required to have their residence verified by the Agency before submitting a deletion request through the DROP. This is necessary to implement Civil Code section 1798.99.86 because the deletion request rights only extend to California consumers. Proposed subsection (a) also indicates that a consumer may request review of their residency classification as provided for in proposed section 7622. This is necessary to provide consumers with the opportunity to provide additional information or explanation if the Agency indicates that it cannot verify the consumer's California residency and the consumer believes the classification is incorrect.

Proposed subsection (b) indicates that a consumer can add personal information to their deletion requests to be used as identifiers for data brokers when processing a delete request. This is necessary to clarify to consumers the types of personal information they can provide to effectuate a DROP deletion request and increase the accuracy of matches. Proposed subsection (b) also indicates that the Agency may verify the personal information that a consumer submits in their DROP deletion request. This is necessary to protect against fraudulent consumer submissions by authenticating the information submitted, such as checking whether the consumer has possession of an email address or phone number.

Proposed subsection (c) indicates that upon submission of a delete request a consumer provides consent to disclose their personal information to data brokers for purposes of processing the deletion request, until the consumer cancels their deletion request. This requirement is necessary to clarify to consumers that their personal information in a DROP deletion request will be provided to data brokers as it is the only way they can effectuate the DROP deletion request. This requirement is also necessary to clarify to consumers that they may revoke their consent by cancelling their deletion request.

Proposed subsection (d) indicates that a consumer may amend or cancel a deletion request made through the DROP after at least 45 days have passed since they submitted the request. This requirement is necessary to implement Civil Code section 1798.99.86 subdivision (a)(4) and clarify that the request must be made through the DROP.

Adopt § 7621. Authorized Agents.

Proposed section 7621 provides the general requirements for authorized agents to help a consumer submit a DROP deletion request. The proposed section clarifies how to submit a consumer deletion request, provides additional disclosure requirements for the authorized agents, and contains restrictions for amending or cancelling a consumer's deletion request.

Proposed subsections (a) and (b) indicate that an authorized agent may aid in a consumer's deletion request by disclosing the agent's name, email address, and trade name, if applicable, through the consumer's DROP account before submitting a deletion request. This requirement is necessary to implement Civil Code section 1798.99.86 and to clarify the process for how an authorized agent can aid in a consumer's DROP deletion request. This information will also aid the Agency in identifying authorized agents aiding with requests in the event the agent needs to be contacted regarding a given submission.

Proposed subsection (c) indicates that an authorized agent may not cancel a consumer's deletion request unless a consumer expressly directs the authorized agent to cancel a request. This requirement is necessary to implement Civil Code section 1798.99.86, which allows an authorized agent to assist consumers with delete requests. This requirement is also necessary to ensure that an authorized agent has consent from the consumer to cancel their request to prevent authorized agents from inappropriately thwarting a consumer's exercise of their Delete Act rights due to, for instance, cancellation of a contract.

Adopt § 7622. Consumer Requirements to Request a Review of Residency Classification.

Proposed section 7622 provides the general requirements for consumers to request a review of their residency classification. The proposed section clarifies that a consumer must explain how they are a resident and provide contact information. The proposed section clarifies how an Agency may review and notify the consumer of the status of the request.

Proposed subsection (a), subsection (a)(1) and subsection (a)(2) indicate that a consumer may request a review of their residency classification through the DROP within 10 calendar days. To do so, the consumer must provide an explanation of why they are a California resident and contact information. Ten calendar days will allow a consumer time to determine if they want to file a request and, if so, provides them with sufficient time to write an explanation. This requirement is necessary to provide consumers guidance on how to request a review of their residency classification. This requirement is also necessary to facilitate the Agency's review of the residency classification and communicate with the consumer about the review.

Proposed subsection (b) indicates that the Agency may request additional documentation when a consumer requests a review of their residency classification. This is necessary to implement Civil Code section 1798.99.86 because a consumer that is not a California resident will not be able to make a consumer request through the DROP. It is important that the Agency can request any information that could substantiate the consumer's proper residency status to ensure they are not improperly denied Delete Act rights. Since residency can be established by

multiple means, the Agency will need to assess what is needed to substantiate a claim of residency on a case-by-case basis.

Proposed subsection (c) indicates that if the Agency’s review of the consumer’s information regarding their residency results in a California residency classification, the Agency will notify the consumer through an email that their residency is verified. This is necessary to provide a consumer with an update to their review request so that they can access the DROP. As the Delete Act rights only extends to California consumer—and third-party identification verification services may not have the latest information regarding a consumer—proposed section 7622 is necessary to provide consumers with an opportunity to provide an explanation, and upon the Agency’s request, submit documentary evidence of their residency. The Agency references the Franchise Tax Board’s definition of “resident” because that is how “consumer” is defined under the CCPA, and such definition carries over to the Delete Act.

INCORPORATION BY REFERENCE

No documents have been incorporated by reference.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS RELIED UPON

California Privacy Protection Agency, Preliminary Rulemaking Activities: Oral Public Comments from Preliminary Stakeholder Session, June 26, 2024, accessed at https://cppa.ca.gov/meetings/materials/20240626_transcript.pdf.

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Federal Trade Commission, Do-Not-Call Registry Proposed Rulemaking (Feb. 13, 2004), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/telemarketing-sales-rule-16-cfr-part-310-4>

Federal Trade Commission, Do-Not-Call Registry Final Rule (Mar. 29, 2004), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/telemarketing-sales-rule-16-cfr-part-310-5>.

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Federal Trade Commission, Do-Not-Call Registry Final Rule (July 30, 2004), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/telemarketing-sales-rule-fees-16-cfr-part-310-2>.

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Federal Trade Commission, Do-Not-Call Registry Final Rule (Aug. 29, 2011), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/16-cfr-part-310-telemarketing-sales-rule-fees-final-rule>.

Federal Trade Commission, Do-Not-Call Registry Final Rule (Aug. 27, 2012), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/16-cfr-part-310-telemarketing-sales-rule-fees-final-rule-0>.

Federal Trade Commission, Do-Not-Call Registry Final Rule (Aug. 30, 2013), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/telemarketing-sales-rule-information-collection-activities-proposed-collection-comment-request>.

Federal Trade Commission, Do-Not-Call Registry Final Rule (Sept. 14, 2018), accessed at <https://www.govinfo.gov/content/pkg/FR-2018-09-14/pdf/2018-20048.pdf>.

Federal Trade Commission, Do-Not-Call Registry Final Rule (Oct. 5, 2020), accessed at <https://www.govinfo.gov/content/pkg/FR-2020-10-05/pdf/2020-19137.pdf>.

Federal Trade Commission, Do-Not-Call Registry Final Rule (Aug. 29, 2024), accessed at <https://www.ftc.gov/legal-library/browse/federal-register-notices/telemarketing-sales-rule-fees>.

Aggregated Responses Data Broker DROP Development Survey, 2024.

ECONOMIC AND FISCAL IMPACT ASSESSMENT

Business Impact

There are 496 data brokers which have registered with the Agency as of March 2025. The businesses impacted by the proposed regulation are all registered data brokers who collect and sell California consumers' personal information.

Estimated Costs to Businesses

The proposed regulations require data brokers to access and interface with the DROP and provide guidance on how to process a consumer DROP deletion request. The proposed regulations will also provide guidance to consumers and authorized agents on how to submit a deletion request through the DROP. Data brokers must access the DROP system starting August 1, 2026, to process deletion requests of consumers. The proposed regulations require data brokers to create a DROP account, access the DROP, process consumer requests, upload the status of consumer requests, maintain access to the DROP, maintain or deactivate their account, and provide reports.

It is anticipated that the cost for businesses to comply with the proposed regulations include initial administrative costs of access and account set-up, costs to prepare an initial status report, and on-going costs of required reporting. The total direct costs incurred under the proposed regulations amounts to approximately \$2,809 per year for a typical business, and \$1,463,924 over 10 years. It is important to note that the development of the DROP and requirements for data brokers to access it on at least 45-day intervals is mandated in statute.

Estimated Benefits of Regulation

The proposed benefits could result in data brokers and information technology (IT) consultants to expand their businesses within California because of the proposed regulations. For instance, IT jobs may be created to support the development and maintenance of status reports or an API to interface with the DROP.

Additionally, as more fully discussed above, data brokers will benefit from the clarity provided within the regulations about how to comply with the requirements mandated by the Delete Act. Consumers will also benefit from a more efficient means of opt-out related to the sharing or sale of their personal information.

Results of Economic Impact Assessment

The Agency has conducted an economic impact assessment and concluded:

- Creation or Elimination of Jobs: Although the number of jobs created or eliminated is unknown, it is possible that information technology jobs may be created to support

implementation or eliminated if data brokers cease operations instead of coming into compliance with the proposed regulations.

- Creation or Elimination of Businesses: Although the number of new businesses created or eliminated is unknown, it is possible that businesses may cease engaging in data broker activities. It is also possible that businesses that assist with Delete Act compliance may be created.
- Expansion of Businesses: Data brokers and information technology consultations may expand their businesses to ensure compliance with Delete Act requirements.
- Worker Safety: The proposal would not benefit worker safety as the provisions do not pertain to, nor impact, worker safety.
- Environment: The proposal would not benefit the state's environment as the provisions do not pertain to, nor will impact, the state's environment.
- Health, Safety and Welfare: The proposal would benefit the health, safety, and welfare of California residents by promoting the privacy of consumer personal information and increasing compliance with the information statutorily required to be deleted by data brokers. Data brokers will benefit from clarity about how to comply with the requirements of the Delete Act, including use of the DROP. Consumers will benefit from a more efficient means of opting out of the sharing or sale of their personal information; ultimately allowing consumers to be more informed when implementing their privacy rights.

Evidence Supporting Finding of No Significant Statewide Adverse Impact

Although the proposed regulations will directly impact businesses statewide, including small businesses, the Agency concludes that the economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant. The proposed regulations would apply to approximately 496 data brokers of which approximately 270 are small businesses. As most of the costs stem from statutory requirements to develop and use the DROP, the regulatory costs are estimated for a typical business to be \$719 in initial costs and \$2,809 in ongoing annual costs while small businesses will incur \$599 in initial costs and \$1,873 in ongoing annual costs. Additionally, the regulations will result in beneficial statewide impacts that protect privacy rights and minimize the amount of personal information that could be disseminated.

Fiscal Effect on State Government

The Agency has accounted for the fiscal costs of implementing the DROP system through a Department of Finance approved Budget Change Proposal for fiscal year 2025/26. Fiscal costs in fiscal year 2025/26 are estimated to be \$2,477,000 and costs in fiscal year 2026/27 are estimated to be \$2,340,000. Ongoing fiscal costs will be covered through data broker

fees required by statute to support the development and maintenance of the DROP, which are not subject to the Administrative Procedure Act (see Civil Code section 1798.99.87(b)).

Disclosures Regarding the Proposed Action

The Agency has made the following initial determinations:

- Local mandate: None.
- Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500, et seq: None.
- Any other non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings to any state agency: The Agency's staff workload associated with managing the DROP and data broker registration and fees under these regulations can be absorbed by existing staff. The Agency has accounted for the fiscal costs of implementing the DROP system through a Department of Finance approved Budget Change Proposal for fiscal year 2025/26. Ongoing fiscal costs to maintain the DROP will be covered by the data broker fees. The proposed regulations are not expected to have any fiscal impact on any other state agencies.
- Cost or savings in federal funding to the state: None.
- Effect upon housing: None.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulations do not require specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES TO THE PROPOSED ACTION

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected businesses and equally effective in achieving the purposes of the regulations in a manner that ensures full compliance with the law being implemented or made specific. Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative 1: The first alternative considered by the Agency is to require use of an API to access and report DROP information. If the Agency required the use of an API, the regulations would be more costly to data brokers as it would require them to develop an API that interfaces with the DROP, even though it is feasible for some data brokers to receive and enter information manually. Therefore, this prescriptive alternative was rejected so as to allow data brokers flexibility in their business operations, while efficiently meeting the

requirements of the Delete Act. The proposed regulations allow use of either automated means (such as an API) or manual method.

Alternative 2: The second alternative considered was to require businesses to provide information and receive information through DROP by using manual uploads and downloads. If the Agency required the use of manual uploads and downloads would be more costly to data brokers as it requires them to develop an API that interfaces with the DROP, even though it is not feasible for some data brokers to receive and enter information manually. For large data brokers and those that may already have an API that can be used, this requirement would likely be more costly. Therefore, this prescriptive alternative was rejected to allow data brokers flexibility in their business operations, while efficiently meeting the requirements of the Delete Act. The proposed regulations allow use of either an API or manual method.

Performance Standard as Alternative

The proposed regulations use performance standards for implementation of the mandated DROP system. While the regulations prescribe specific actions, in most instances, the proposed regulations give businesses discretion as to how to meet those requirements, or support consistency across regulated entities in processing and reporting status of delete requests.